

IN RE: PETITION FOR ZONING VARIANCE
P/S Rockdale Terrace, 241' NE
of the c/l of Liberty Road
(3611 Rockdale Terrace)
2nd Election District
2nd Councilmanic District

• BEFORE THE
• DEPUTY ZONING COMMISSIONER
• OF BALTIMORE COUNTY
• Case No. 92-77-A

Robert B. Graves, et ux
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two lot widths of 50 feet each in lieu of the required 55 feet and to permit a side yard setback of 8.5 feet in lieu of the minimum required 10 feet for an existing dwelling, all as more particularly described on Petitioner's Exhibit 1.

The Petitioners, by Robert Graves, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 3611 Rockdale Terrace, consists of 12,075 sq.ft. zoned D.R. 5.5 and is presently unimproved. Said property is also known as Lot 27 of Rockdale. Petitioners testified they purchased the subject property and the adjoining property on which they reside, known as 3613 Rockdale Terrace, in 1977. Testimony indicated that the two properties were purchased and deeded to Petitioners as two separate lots. Petitioners are desirous of selling Lot 27 as a buildable lot but have been unsuccessful as a result of a change in the zoning regulations requiring a minimum lot width of 55 feet. Petitioners introduced Petitioner's Exhibit 2 evidencing that Rockdale was recorded in 1922 with 50-foot wide lots. Further testimony indicated that the variance to side yard setback requirements is necessary due to the

location of the existing dwelling on Lot 26. Petitioners testified the subject property has become a burden for them to maintain and that they have attempted to sell the property together with their home to no avail. Testimony indicated Petitioners have spoken with all their neighbors and that there were no objections to a house being built on Lot 27. Testimony indicated the relief requested would not result in any detriment to the health, safety or general welfare of the community and that to deny same would only result in unreasonable hardship for Petitioners.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the petitioner and his property. McLean v. Soley, 210 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 23 day of October, 1991 that the Petition for Zoning Variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two lot widths of 50 feet each in lieu of the required 55 feet for Lots 26 and 27 of Rockdale, and to permit a side yard setback of 8.5 feet in lieu of the minimum required 10 feet for an existing dwelling on Lot 26, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

October 23, 1991

Mr. & Mrs. Robert B. Graves
3613 Rockdale Terrace
Baltimore, Maryland 21207

RE: PETITION FOR ZONING VARIANCE
P/S Rockdale Terrace, 241' NE of the c/l of Liberty Road
(3611 Rockdale Terrace)
2nd Election District - 2nd Councilmanic District
Robert B. Graves, et ux - Petitioners
Case No. 92-77-A

Dear Mr. & Mrs. Graves:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: People's Counsel

File



Petition for Variance

to the Zoning Commissioner of Baltimore County

92-77-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.C.1 - to allow two lot widths of 50' in lieu of the required 55' and to allow a side yard setback of 8.5' in lieu of the required 10'. 2AR

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

SEE ATTACHED

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

Contract Purchaser/Reseece:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Robert Bradley Graves

(Type or Print Name)

Robert Bradley Graves

Signature

Robert B. Graves

(Type or Print Name)

Robert B. Graves

Signature

3613 ROCKDALE TERR. 922-3619

Address

BALTO. MD. 21207

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

ROBERT BRADLEY GRAVES

3613 ROCKDALE TERR. 922-3619

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING - 1/2HR. +1HR.

AVAILABLE FOR HEARING

MON./TUES./WED. - NEXT TWO MONTHS

ALL OTHER

REVIEWED BY: DATE:

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HARDSHIP REASONS FOR GRANTING VARIANCE

1) OUR PROPERTY HAS BEEN FAR SINCE FORTY YEARS, BUT WITH BUYERS IN THIS AREA EITHER NOT INTERESTED IN BOTH LOTS 26+27 OR UNABLE TO QUALIFY FOR FINANCING FOR BOTH LOTS (\$7,900 FOR HOUSE AND LOT 26, AND \$20,000 FOR LOT 27, OR \$102,000 BOTH LOTS COMBINED); WE HAVE BEEN UNDER UNDUKE HARDSHIP TO SECURE A REASONABLE RETURN FOR OUR PROPERTY WITHOUT A FIVE FOOT VARIANCE GRANTED TO OUR LOT #27.

2) THE DIFFICULTIES AND HARDSHIP PECULIAR TO THIS PROPERTY IS THAT WHEN THIS NEIGHBORHOOD WAS ESTABLISHED, ALL OF THE LOTS WERE MEASURED IN 50' BUILDING LOTS, SINCE THAT TIME THE ZONING LAWS HAVE BEEN CHANGED TO 55' BUILDING LOTS. MOST ALL OF THE HOMES IN OUR AREA ARE ON 50' LOTS AND WITHOUT A 5' VARIANCE OUR LOT #27 CANNOT BE IMPROVED. WE HAVE TRIED FOR 12 YEARS TO SECURE A REASONABLE RETURN BY MARKETING OUR TWO LOTS 26+27 TOGETHER AND SEPARATELY, WITH THE VACANT LOT #27 ALWAYS BEING A PROBLEM (DESCRIBED IN SECTION 1) WE HAVE MANAGED TO SELL THIS PROPERTY AT A MUCH LESS THAN GOING RATE TO DISSENTING NEIGHBORS WITHOUT ANY SUCCESS. SINCE ALL THE

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OTHER PROPERTIES ON OUR STREET WERE BUILT ON 50' LOTS, OUR ONE LOT #27 IS AND WILL REMAIN VACANT, AFTER OUR HOUSE IS SOLD ON LOT 26; AND MOST IMPORTANTLY WILL BE AND IS A PECULIAR HARDSHIP TO US IN OUR PURSUIT OF A FAIR AND REASONABLE RETURN. PLEASE GRANT US A FIVE FOOT VARIANCE WHICH WILL BE IN THE BEST INTEREST AND WITHOUT BURDEN TO US, THE NEIGHBORHOOD AND BALTIMORE COUNTY.

3) WE PURCHASED THIS PROPERTY IN 1977 FROM THE PASTOR OF OUR CHURCH WHO AT THAT TIME USED THIS PROPERTY AS THE CHURCH PARSONAGE. WE WERE TOLD OR LED TO BELIEVE THAT WE COULD AT SOME TIME BUILD ON THE VACANT LOT #27. RECENTLY, HOWEVER, WE HAVE BEEN TOLD THAT THE ZONING LAWS CHANGED SOME TIME BEFORE WE PURCHASED OUR PROPERTY. WE DID NOT CHECK ON THIS IN 1977 BECAUSE AT THAT TIME WE HAD NO NEED TO IMPROVE THE VACANT LOT. HOWEVER, SINCE THAT TIME, THINGS HAVE CHANGED ALL OVER THE COUNTY,

92-77-A

AND WITH US. THE COUNTY CHANGED THE BUILDING LOT SIZE TO 55' AND AT THE SAME TIME INCREASED THE BUILDING DENSITY TO DR 5.5. WE ARE ONLY REQUESTING A FAIR SOLUTION TO OUR PROBLEM WHICH WILL HAVE NO ADVERSE EFFECT ON ANYONE OR BALTIMORE COUNTY. BY ALLOWING US A 5' VARIANCE, THE COUNTY WILL BE RELIEVING US OF AN UNDUKE HARDSHIP WHICH WAS NO FAULT OF OUR OWN. A FIVE FOOT VARIANCE WOULD ALLOW US TO RECEIVE A REASONABLE RETURN AND AT THE SAME TIME, THE PROPERTY WOULD GENERATE FUTURE GROWTH FOR THE COUNTY. PLEASE GRANT US A FIVE FOOT VARIANCE SO THAT OUR PROPERTY WILL CONFORM TO, AND BE OF EQUAL USE AND PURPOSE, AS THE REST OF OUR 50' LOT BUILDING SITE NEIGHBORHOOD.

Sincerely,
Robert Bradley Graves 8/14/91
Robert B. Graves 8/14/91

Beginning on the east side of Rockdale Terrace 30' maintained at a point distant northeasterly 241' +/- from the center line of Liberty Road being lots 26 and 27 in the subdivision of Rockdale Platbook 7 folio 47, containing approximately 24,000 square feet. Also known as **3611-3613 Rockdale Terrace in the 2nd Election District, and 2nd Councilmanic District.**

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District: Shamir Date of Posting: 9-2-91
 Posted for: Shamir
 Petitioner: Pratap Prasad Sharma, IAS
 Location of property: 55, 2nd Floor, 2nd Floor, 2nd Floor
the 2nd Floor, 2nd Floor, 2nd Floor
 Location of Sign: Pratap Prasad Sharma
 Remarks: _____
 Posted by: A. J. [Signature] Date of return: 9-2-91
 Number of Signs: 1

TOWSON, MD., _____, 19____
 I DO HEREBY CERTIFY, that the annexed advertisement was
 in OWINGS MILLS TIMES, a weekly newspaper published
 in Baltimore County, Md., once in each of _____
 weeks, the first publication appearing on _____
 19____.

OWINGS MILLS TIMES,

Publisher

TOWSON, MD., _____, 19____

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of ____ successive weeks, the first publication appearing on _____, 19 ____.

THE JEFFERSONIAN.

S. Zehe Orban
Publisher

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the Planning Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 92-271 A
E 5 Rcode Terrace, NEly 241' (1' - 3') from c.
Livery Road
3611-3613 Rcode Terrace
2nd Election District
2nd Councilmanic
Precinct(s):
Robert Bardley
Graves, et al
Hearing Date: Wednesday
Oct 16, 1991 at 2:00 p.m.

Variance: to allow two lot widths, 55 feet in one lot, and 55 feet, and to allow a side yard setback of 8.5 feet in lieu of the required 10 feet.

Zoning Commission of
Baltimore County
OMT 3/09 September 12

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will accept a public hearing on the proposed rezoning of the property identified herein in Room 106, located at 111 W. Chesapeake Avenue, Towson, Maryland 21204 as follows:

Case Number: 92-77-A
E/S Rockdale Terrace, NE1/4
241' (±) x 140' from C
36111-36113 Rockdale Terrace
2nd Election District
2nd Councilmanic
Precinct(s):
Porter Barclay
Greaves, et al
Hearing Dates: Wednesday
September 16, 1991 at 2:00 p.m.

Variance: to allow two lot widths of 50 feet in lieu of the required 55 feet, and to allow a side yard setback of 8.5 feet in lieu of the required 10 feet.

Zoning Commissioner of
Baltimore County
OMT/J9079
September 12

111 West Chesapeake Avenue
Towson, MD 21204

887 335.3

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

CASE NUMBER: 92-77-A
E/S Rockdale Terrace, WELY 241' (=/-) from c/l Liberty Road
3611-3613 Rockdale Terrace
2nd Election District - 2nd Councilmanic
Petitioner(s): Robert Bradley Graves, et ux
WEARING: WEDNESDAY, OCTOBER 16, 1991 at 2:00 p.m.

Variance to allow two lot widths of 50 feet in lieu of the required 55 feet; and to allow a side yard setback of 8.5 feet in lieu of the required 10 feet.

J. Robert Haines
Zoning Commissioner of
Baltimore County

cc: Robert Bradley Graves

111 West Chesapeake Avenue
Towson, MD 21204

88-3353

October 1, 1991

Mr. & Mrs. Robert B. Graves
3613 Rockdale Terrace
Baltimore, MD 21207


RE: Item No. 75, Case No. 92-77-A
Petitioner: Robert B. Graves, et ux
Petition for Variance

Dear Mr. & Mrs. Graves:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

receipt

Account: R-001-6150
Number

04A04H0069#1CHRC \$70.00
SA 0010:30A408-15-91
Checks Payable to: Baltimore County

Date _____

Account: R 001 6150
Number

Please Make Checks Payable To: Baltimore County


111 West Chesapeake Avenue
Towson, MD 21204

88-3353

Your petition has been received and accepted for filing this
15th day of August, 1991.

Arnold Jablon
ARNOLD JABLON
DIRECTOR

Received By:


Chairman,
Zoning Plans Advisory Committee

Petitioner: Robert B. Graves, et ux
Petitioner's Attorney:

TO: Arnold Jablon, Director DATE: September 13, 1991
Zoning Administration and
Development Management

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: HELBING Property, Item No. 53
Smith Property, Item No. 64
McClure Property, Item No. 66
Boehmlein Property, Item No. 65
Marx Property, Item No. 68
Buie Property, Item No. 69
Pulaski Property, Item No. 70
Wollschlaeger Property, Item No. 72
Bray Property, Item No. 74
Graves Property, Item No. 75
Sylvia Property, Item No. 76
Long Property, Item No. 77
Pearl Property, Item No. 79
Casey Property, Item No. 80
Edwards Property, Item No. 81
Tyson Property, Item No. 85
Skidmore Property, Item No. 88
Williams Property, Item No. 89
Restivo Property, Item No. 90
Didier Property, Item No. 97
Wesolowski Property, Item No. 102
Griffin Property, Item No. 103
Burgwin Property, Item No. 104
Ghent Property, Item No. 110
Llmgg Property, Item No. 111
Bates Property, Item No. 112
Bond Property, Item No. 115

In reference to the Petitioner's request, staff offers no comments.

If there should be any further questions or if this office provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/rdn
ITEM47/TXTROZ

SUBMITTED.
APPLICABLE CODE: 1990 NATIONAL BUILDING CODES AS ADOPTED BY COUNTY
COUNCIL BILL #192-90 EFFECTIVE 1/13/91

RWB::

Rahee J. Famili
Traffic Engineer II

RJF/1vcd

ROCKDALE TERRACE
PROPERTY OF
CLARENCE E. AND SELMA E. PAYNE
ROCKDALE
2ND DIST. BURL CO.

Plat of Rockdale Terrace
filed for record October
16th 1922
Test W.P. Clev Clerk

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Subscribed to under
William H. Clev
County Surveyor for Burl Co.
Witness M.H. Clev 12 1922

75

ROCKDALE TERRACE
PROPERTY OF
CLARENCE E. AND SELMA E. FRANK
ROCKDALE
2ND DIST BLDG CO

LIBERTY ROAD

TERRACE

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35

Peak of Rockdale Terrace
filed for record October
16th 1922
Leak Wm. J. Cole Clerk

**PETITIONER'S
EXHIBIT 2**

Scale: 100 feet to 1 inch
William Whitney
County Surveyor for Bath Co.
Tolson Md Oct 12 1922

Scale: 100 feet to 1 inch
William Whitney
County Surveyor for Bath Co.
Tolson Md Oct 12 1922

A 3x3 grid of nine black and white photographs showing various views of a residential property. The top-left photo shows a paved driveway leading towards a house. The top-middle photo shows a house with a chimney and a lawn. The top-right photo shows a large lawn with trees in the background. The middle-left photo shows a house with a gabled roof and a lawn. The middle-middle photo shows a house with a chimney and a lawn. The middle-right photo shows a large lawn with trees in the background. The bottom-left photo shows a house with a gabled roof and a lawn. The bottom-middle photo shows a house with a chimney and a lawn. The bottom-right photo shows a large lawn with trees in the background.



BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING PHOTOGRAPHIC MAP

DATE
OF
PHOTOGRAPHY
JANUARY
1986

N.W.
6-G